

By: Smithee

H.B. No. 2891

A BILL TO BE ENTITLED

AN ACT

relating to the medical authorization required to release protected health information in a health care liability claim.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 74.052(c), Civil Practice and Remedies Code, is amended to read as follows:

(c) The medical authorization required by this section shall be in the following form and shall be construed in accordance with the "Standards for Privacy of Individually Identifiable Health Information" (45 C.F.R. Parts 160 and 164).

AUTHORIZATION FORM FOR RELEASE OF PROTECTED HEALTH INFORMATION

Patient Name:\_\_\_\_\_ Patient Place of Birth:\_\_\_\_\_

Patient Address:\_\_\_\_\_

\_\_\_\_\_ Street\_\_\_\_\_ City, State, ZIP

Patient Telephone:\_\_\_\_\_ Patient E-mail:\_\_\_\_\_

NOTICE TO PHYSICIAN OR HEALTH CARE PROVIDER: THIS AUTHORIZATION FORM HAS BEEN AUTHORIZED BY THE TEXAS LEGISLATURE PURSUANT TO SECTION 74.052, CIVIL PRACTICE AND REMEDIES CODE. YOU ARE REQUIRED TO PROVIDE THE MEDICAL AND BILLING RECORDS AS REQUESTED IN THIS AUTHORIZATION.

A. I, \_\_\_\_\_ (name of patient or authorized representative), hereby authorize \_\_\_\_\_ (name of physician or other health care provider to whom the notice of health care claim is directed) to obtain and disclose (within the parameters set out

1 below) the protected health information and associated billing  
2 records described below for the following specific purposes (check  
3 all that apply):

4  [~~1.~~] To facilitate the investigation and evaluation  
5 of the health care claim described in the accompanying Notice of  
6 Health Care Claim. [~~1.~~]

7  [~~2.~~] Defense of any litigation arising out of the  
8 claim made the basis of the accompanying Notice of Health Care  
9 Claim.

10  Other - Specify: \_\_\_\_\_

11 B. The health information to be obtained, used, or disclosed  
12 extends to and includes the verbal as well as [~~the~~] written and  
13 electronic and is specifically described as follows:

14 1. The health information and billing records in the  
15 custody of the [~~following~~] physicians or health care providers who  
16 have examined, evaluated, or treated \_\_\_\_\_ (patient) in  
17 connection with the injuries alleged to have been sustained in  
18 connection with the claim asserted in the accompanying Notice of  
19 Health Care Claim.

20 Names and current addresses of treating physicians or  
21 health care providers:

22 1. \_\_\_\_\_

23 2. \_\_\_\_\_

24 3. \_\_\_\_\_

25 4. \_\_\_\_\_

26 5. \_\_\_\_\_

27 6. \_\_\_\_\_

1                    7. \_\_\_\_\_  
 2                    8. \_\_\_\_\_ [~~(Here list the name and~~  
 3 ~~current address of all treating physicians or health care~~  
 4 ~~providers).~~]

5                    This authorization shall extend to any additional physicians  
 6 or health care providers that may in the future evaluate, examine,  
 7 or treat \_\_\_\_\_ (patient) for injuries alleged in connection  
 8 with the claim made the basis of the attached Notice of Health Care  
 9 Claim;

10                    2. The health information and billing records in the  
 11 custody of the following physicians or health care providers who  
 12 have examined, evaluated, or treated \_\_\_\_\_ (patient) during a  
 13 period commencing five years prior to the incident made the basis of  
 14 the accompanying Notice of Health Care Claim.

15                    Names [~~(Here list the name]~~ and current addresses  
 16 [~~address]~~ of treating [~~such]~~ physicians or health care providers,  
 17 if applicable: [~~.->]~~

- 18                    1. \_\_\_\_\_
- 19                    2. \_\_\_\_\_
- 20                    3. \_\_\_\_\_
- 21                    4. \_\_\_\_\_
- 22                    5. \_\_\_\_\_
- 23                    6. \_\_\_\_\_
- 24                    7. \_\_\_\_\_
- 25                    8. \_\_\_\_\_

26                    C. Exclusions

- 27                    1. Providers excluded from authorization.

1        The [~~Excluded Health Information--the~~] following constitutes  
 2 a list of physicians or health care providers possessing health  
 3 care information concerning \_\_\_\_\_ (patient) to whom [~~which~~]  
 4 this authorization does not apply because I contend that such  
 5 health care information is not relevant to the damages being  
 6 claimed or to the physical, mental, or emotional condition of  
 7 \_\_\_\_\_ (patient) arising out of the claim made the basis of the  
 8 accompanying Notice of Health Care Claim. List the names [~~Here~~  
 9 ~~state "none" or list the name~~] of each physician or health care  
 10 provider to whom this authorization does not extend and the  
 11 inclusive dates of examination, evaluation, or treatment to be  
 12 withheld from disclosure, or state "none":

- 13            1. \_\_\_\_\_
- 14            2. \_\_\_\_\_
- 15            3. \_\_\_\_\_
- 16            4. \_\_\_\_\_
- 17            5. \_\_\_\_\_
- 18            6. \_\_\_\_\_
- 19            7. \_\_\_\_\_
- 20            8. \_\_\_\_\_ [→]

21            2. By initialing below, the patient or patient's  
 22 personal or legal representative excludes the following  
 23 information from this authorization:

- 24            \_\_\_\_\_ HIV/AIDS test results and/or treatment
- 25            \_\_\_\_\_ Drug/alcohol/substance abuse treatment
- 26            \_\_\_\_\_ Mental health records (mental health records  
 27 do not include psychotherapy notes)

1                    Genetic information (including genetic test  
2 results)

3            D. The persons or class of persons to whom the patient's  
4 health information and billing records [~~of \_\_\_\_\_ (patient)~~]  
5 will be disclosed or who will make use of said information are:

6                    1. Any and all physicians or health care providers  
7 providing care or treatment to \_\_\_\_\_ (patient);

8                    2. Any liability insurance entity providing liability  
9 insurance coverage or defense to any physician or health care  
10 provider to whom Notice of Health Care Claim has been given with  
11 regard to the care and treatment of \_\_\_\_\_ (patient);

12                    3. Any consulting or testifying experts employed by or  
13 on behalf of \_\_\_\_\_ (name of physician or health care provider  
14 to whom Notice of Health Care Claim has been given) with regard to  
15 the matter set out in the Notice of Health Care Claim accompanying  
16 this authorization;

17                    4. Any attorneys (including secretarial, clerical,  
18 experts, or paralegal staff) employed by or on behalf of \_\_\_\_\_  
19 (name of physician or health care provider to whom Notice of Health  
20 Care Claim has been given) with regard to the matter set out in the  
21 Notice of Health Care Claim accompanying this authorization;

22                    5. Any trier of the law or facts relating to any suit  
23 filed seeking damages arising out of the medical care or treatment  
24 of \_\_\_\_\_ (patient).

25            E. This authorization shall expire upon resolution of the  
26 claim asserted or at the conclusion of any litigation instituted in  
27 connection with the subject matter of the Notice of Health Care

1 Claim accompanying this authorization, whichever occurs sooner.

2 F. I understand that, without exception, I have the right to  
3 revoke this authorization in writing. I further understand the  
4 consequence of any such revocation as set out in Section 74.052,  
5 Civil Practice and Remedies Code.

6 G. I understand that the signing of this authorization is  
7 not a condition for continued treatment, payment, enrollment, or  
8 eligibility for health plan benefits.

9 H. I understand that information used or disclosed pursuant  
10 to this authorization may be subject to redisclosure by the  
11 recipient and may no longer be protected by federal HIPAA privacy  
12 regulations.

13 Name of Patient

14 \_\_\_\_\_

15 Signature of Patient/Personal or Legal Representative

16 \_\_\_\_\_

17 [~~Date~~

18 [\_\_\_\_\_

19 [~~Name of Patient/Representative~~

20 [\_\_\_\_\_]

21 Description of Personal or Legal Representative's Authority

22 \_\_\_\_\_

23 Date

24 \_\_\_\_\_

25 SECTION 2. This Act takes effect immediately if it receives  
26 a vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2017.